

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND)	
TRANSPORTATION COMMISSION,)	DOCKET UT-090073
)	
Complainant,)	COMPLAINT
)	
v.)	NOTICE OF PREHEARING
)	CONFERENCE
VERIZON NORTHWEST INC.,)	(Set for April 21, 2009,
)	at 1:30 p.m.)
Respondent.)	
)	
.....)	

1 The Washington Utilities and Transportation Commission (Commission), on its own motion, and through its Staff, alleges as follows:

I. BACKGROUND

2 The Staff of the Washington Utilities and Transportation Commission (“Commission Staff” or “Staff”) has conducted three investigations into the business practices of Verizon Northwest Inc. (Verizon or Company) since October, 2005.

3 During its preliminary investigation in October 2005, Staff reviewed 100 consumer complaints filed with the Commission in 2005. Among other issues, Staff found an increasing number of complaints from Washington Telephone Assistance Program (WTAP) applicants, alleging that Verizon’s proper billing of WTAP rates was delayed, or the information given to the customer about WTAP service was incorrect or misleading. Staff notified Verizon of several violations of Commission rules associated with the complaints. Following the preliminary investigation, Staff met with the Company to discuss its findings.

4 WTAP is designed to help low-income households afford access to local telephone service, and is formally administered by the Department of Social and Health Services. *RCW 80.36.410; WAC 388-273*. Among other benefits, WTAP participants receive a discounted rate on local telephone services. *RCW 80.36.420*. The Commission sets, by

order, the WTAP rate to be paid by program participants. *WAC 480-122-020; RCW 80.36.410*. Verizon's WTAP rates are set forth in its tariff on file with the Commission.

- 5 In 2007, in Docket UT-071654, Staff conducted a second investigation of consumer complaints filed with the Commission against Verizon. The investigation found Verizon failed to comply with Commission rules related to: (1) responding to Commission-referred complaints; (2) charging proper rates for WTAP customers; (3) improperly discontinuing service; and (4) improperly applying customer payments. Subsequently, Staff and Verizon agreed to a series of performance measures in a Compliance Plan covering a six-month "compliance period" from November 2007, to May 2008. The Compliance Plan was intended to improve Verizon's compliance with Commission rules, and address Staff's concerns with issues raised by Verizon's customers. Verizon provided monthly reports of its performance measures statistics to Staff.
- 6 After the compliance period, Staff reviewed and documented the results of the Compliance Plan. Staff's review found that Verizon had substantially complied with Commission rules related to the processing of Commission-referred complaints. However, Staff also found that Verizon had failed to substantially improve its customer service, and that the Commission continued to receive numerous customer complaints related to WTAP service. These WTAP-related complaints resulted in Staff identifying a significant number of violations of RCW 80.36.130 for failure to charge proper WTAP rates and charges.
- 7 Staff shared its findings with Verizon representatives at a meeting in June 2008. Verizon assured Staff that it was making improvements to its processes on an ongoing basis.
- 8 In this docket, in December 2008, Staff opened a third investigation of Verizon, intended to determine if Verizon was in compliance with Commission rules since June, 2008. Staff's investigation included a review of 102 Verizon customer complaints the Commission received from June 1, 2008, through November 30, 2008, after the conclusion of the period covered by the Compliance Plan.
- 9 Staff found that, of the 102 complaints reviewed, 34 complaints were related to the WTAP application process or WTAP billing. Many customers alleged that they had informed Verizon that they qualified for WTAP rates, but Verizon did not properly process their WTAP applications. As a result, these customers were not properly charged WTAP rates by Verizon. Staff recorded a total of 49 violations of RCW 80.36.130 associated with 19 of these complaints. Staff's investigation in this docket found that technical assistance provided by Staff, compliance meetings with Verizon,

and a written compliance plan were not effective in ensuring Verizon's compliance with RCW 80.36.130, with respect to WTAP billing.

- 10 Staff's investigation also found that five customers filed complaints with the Commission alleging that they were billed city taxes by Verizon even though their service was located outside city limits. Customers contacted Verizon, but Verizon failed to properly investigate the issue or correct their billing. After the Commission became involved by referring the complaints, Verizon acknowledged and identified incorrect billings, and refunded the complainants incorrectly billed amounts. After Staff requested that Verizon review its billing records of customers located in the same geographic area as the complainants, Verizon investigated, identified, and acknowledged additional customers that were incorrectly billed city taxes. Verizon informed Staff of the number of additional incorrect bills it found, and that it was issuing refunds. Verizon issued refunds on up to 24 months of incorrect bills identified. The complaints identified 25 incorrectly-billed customers. In total, Staff recorded 588 violations of RCW 80.36.130(1) for customer bills in which Verizon improperly charged city taxes.
- 11 Staff completed its follow-up investigation in March 2009. Staff's investigation report is attached to this Complaint as *Attachment 1*.
- 12 Under RCW 80.04.380, Verizon is subject to penalties of up to \$1,000 for each violation of RCW Title 80.

II. PARTIES

- 13 The Washington Utilities and Transportation Commission is an agency of the State of Washington, authorized by state law to regulate the rates, services, facilities, and practices of public service companies, including telecommunications companies, under the provisions of RCW Title 80.
- 14 Verizon Northwest Inc. is a telecommunications company subject to regulation by the Commission pursuant to RCW 80.01.040.

III. JURISDICTION

- 15 The Commission has jurisdiction over this matter pursuant to RCW 80.01.040, RCW 80.04.110, RCW 80.04.160, RCW 80.04.380, RCW 80.04.470, RCW 80.36, and WAC 480-120.

IV. CLAIMS AND CAUSES OF ACTION

- 16 The Commission, through its Staff, realleges the allegations contained in paragraphs 2 through 15 above.
- 17 Telecommunications companies subject to Commission jurisdiction must properly bill customers by charging no more than the rates in their tariffs or schedules. RCW 80.36.130(1) provides that no telecommunications company may charge, demand, collect, or receive different compensation for any service rendered or to be rendered than the charge applicable to such service as specified in its schedule on file with the Commission and in effect at that time.
- 18 Verizon's rate schedule on file with the Commission sets forth the WTAP rates that Verizon must charge WTAP-eligible customers.
- 19 Verizon committed 49 violations of RCW 80.36.130(1) by failing to properly charge discounted WTAP rates to eligible customers in accordance with its rate schedule on file with the Commission.
- 20 Verizon's rate schedule on file with the Commission sets forth the municipal tax rates that Verizon may charge its customers located within the territorial limits of the taxing jurisdiction in order to recover Verizon's costs of the taxes levied by the jurisdiction. Verizon may not charge the applicable municipal taxes to customers outside the territorial limits of the taxing jurisdiction.
- 21 Verizon committed 588 violations of RCW 80.36.130(1) by improperly charging city taxes to customers located outside city limits.

V. APPLICABLE LAW

- 22 Under RCW 80.04.380, the Commission may penalize a public service company that violates any rule or requirement of the Commission up to \$1,000 for each and every offense. Every violation shall be a separate and distinct offense, and, in the case of a continuing violation, every day's continuance thereof shall be deemed to be a separate and distinct offense.

VI. REQUEST FOR RELIEF

- 23 Staff requests that the Commission find that Verizon committed 637 violations of RCW 80.36.130(1), as set forth in the allegations above.
- 24 Staff further requests that the Commission impose monetary penalties on Verizon in the amount of \$107,800 under the authority provided by RCW 80.04.380, as follows: \$49,000 for violations of RCW 80.36.130(1) related to the failure to properly charge customers WTAP rates on file with the Commission; and \$58,800 for violations of RCW 80.36.130(1) related to improperly billing city taxes to customers located outside city limits.
- 25 Staff further requests that the Commission order such other or further relief as is appropriate under the circumstances.

VII. PROBABLE CAUSE

- 26 Based on a review of Staff's report on its investigation of Verizon, and all supporting documents, and consistent with RCW 80.01.060 and WAC 480-07-307, the Commission finds probable cause exists to issue this complaint.

VIII. NOTICE OF PREHEARING CONFERENCE

- 27 **THE COMMISSION GIVES NOTICE That** it will hold a prehearing conference in this matter at **1:30 p.m., on April 21, 2009**, in Room 206, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington. The purpose of the prehearing conference is to consider requests for intervention, resolve scheduling matters including establishing a procedural schedule, to identify the issues in the proceeding and determine other matters to assist the Commission in resolving the matter, as listed in WAC 480-07-430.
- 28 The Commission will hear this matter under the Administrative Procedure Act (APA), particularly Part IV of RCW 34.05, relating to adjudications. The provisions of the APA that relate to this proceeding include, but are not limited to, RCW 34.05.413, RCW 34.05.431, RCW 34.05.434, RCW 34.05.440, RCW 34.05.449, and RCW 34.05.452. The Commission will also follow its procedural rules in WAC 480-07 in this proceeding.
- 29 **THE COMMISSION GIVES FURTHER NOTICE THAT ANY PARTY WHO FAILS TO ATTEND OR PARTICIPATE IN THE HEARING SET BY THIS NOTICE, OR ANY OTHER STAGE OF THIS PROCEEDING, MAY BE HELD IN DEFAULT IN ACCORDANCE WITH RCW 34.05.440 AND WAC 480-07-450.**

30 If any party or witness needs an interpreter or other assistance, please fill out the form attached to this notice and return it to the Commission.

31 The names and mailing addresses of all parties and their known representatives are as follows:

Complainant: Washington Utilities and
Transportation Commission
1300 S. Evergreen Park Drive S.W.
PO Box 47250
Olympia, WA 98504-7250
(360) 664-1160

Representative: Sally Brown
Assistant Attorney General
1400 S. Evergreen Park Drive S.W.
PO Box 40128
Olympia, WA 98504-0128
(360) 664-1193
sbrown@utc.wa.gov

Respondent: Verizon Northwest, Inc.
David S. Valdez
Vice President Public Policy
1800 – 41st Street, MS: WA0101RA
Everett, WA 98201
(425) 261-5691

Representative: Gregory M. Romano
General Counsel – Northwest Region
Verizon Northwest, Inc.
1800 – 41st Street, MS: WA0105GC
Everett, WA 98201
(425) 261-5460
gregory.m.romano@verizon.com

32 Dennis J. Moss is appointed as the Administrative Law Judge from the Utilities and Transportation Commission’s Administrative Law Division, 1300 S. Evergreen Park Drive S.W., Olympia, Washington 98504-7250, and will preside at the hearing.

33 Notice of any other procedural phase will be given in writing or on the record as the Commission may deem appropriate during the course of this proceeding.

DATED at Olympia, Washington, and effective March 18, 2009.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

ANN E. RENDAHL
Administrative Law Judge

Inquiries may be addressed to:

Executive Director and Secretary
Washington Utilities and
Transportation Commission
Richard Hemstad Building
1300 S. Evergreen Park Drive S.W.
P. O. Box 47250
Olympia, WA 98504-7250
(360) 664-1160

NOTICE

PLEASE NOTE: The hearing facilities are accessible to interested people with disabilities; that smoking is prohibited; and, if limited English-speaking or hearing-impaired parties or witnesses are involved in a hearing and need an interpreter, a qualified interpreter will be appointed at no cost to the party or witness.

The information needed to provide an appropriate interpreter or other assistance should be stated below and returned to Washington Utilities and Transportation Commission, Attention: David W. Danner, 1300 S. Evergreen Park Drive SW, P.O. Box 47250, Olympia, WA 98504-7250. (PLEASE SUPPLY ALL REQUESTED INFORMATION)

Docket: _____

Case Name: _____

Hearing Date: _____ Hearing Location: _____

Primary Language: _____

Hearing Impaired: (Yes)_____ (No)_____

Do you need a certified sign language interpreter?:

Visual_____ Tactile_____

Other type of assistance needed: _____

English-speaking person who can be contacted if there are questions:

Name: _____

Address: _____

Phone No.: (____)_____